

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MAY 19, 2005

AMENDED IN SENATE MAY 10, 2005

AMENDED IN SENATE APRIL 27, 2005

AMENDED IN SENATE APRIL 12, 2005

**SENATE BILL**

**No. 198**

**Introduced by Senator Lowenthal**

February 10, 2005

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An act to ~~add Section~~ amend Section 18080.5 of, to add Sections 18035.26 and 18871.1 to, to add Article 2.1 (commencing with Section 18615) to, and to repeal the heading of Article 2.5 of, Chapter 5 of Part 2.1 of Division 13 of, the Health and Safety Code, relating to manufactured homes, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 198, as amended, Lowenthal. Manufactured housing: installation.

(1) *Existing law, the Mobilehomes-Manufactured Housing Act of 1980, sets forth conditions and requirements regarding the transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome.*

*This bill would set forth requirements applicable only to the sale of a new or used manufactured home or multiunit manufactured housing or used mobilehome sold by a dealer and to be installed by the buyer on a foundation system, as specified. The bill would deem the sale of these homes to be complete at the close of escrow and would deem escrow to be closed when a prescribed document containing a declaration of delivery sale and specifying the start date of the*

*manufacturer's warranty is executed, all funds in the escrow accounts are disbursed, and the buyer takes delivery of the home.*

*(2) Existing law deems a transaction by or through a dealer for the sale of a new or used manufactured home or multiunit manufactured housing or used mobilehome to be installed by the buyer on a foundation system pursuant to specified provisions to be completed and consummated when the installation is completed and a certificate of occupancy is issued.*

*This bill would instead deem this sale to be completed and consummated within 10 calendar days of the close of escrow.*

(3) Existing law, the Mobilehome Parks Act, authorizes factory-built housing bearing a designated insignia, manufactured homes as defined, mobilehomes as defined, and multiunit manufactured housing as defined, to be affixed to a foundation system within a mobilehome park if the installation conforms to certain conditions. Existing law requires a contractor engaged to install a manufactured home or mobilehome to obtain a permit from the enforcement agency each time a manufactured home or mobilehome is to be located, installed, or reinstalled on any site for the purpose of human habitation or occupancy as a dwelling and requires the contractor to display a valid contractor's license when applying for the permit.

Existing law requires the contractor to complete the installation in accordance with the regulations adopted by the department within the time limitations that are established by the regulations. Existing law prohibits the requirements for the installation of a manufactured home or mobilehome from exceeding specified statutory requirements. Existing law makes it a misdemeanor to willfully violate the Mobilehome Parks Act.

This bill would ~~require~~ *authorize* the Department of Housing and Community Development to adopt guidelines, as specified, and *would require the department* to implement a program complying with federal requirements related to standards for installing or altering the installation of manufactured homes, mobilehomes, *and* multiunit manufactured housing, ~~and commercial modulars and the licensing, training, and certification of installers of manufactured homes, mobilehomes, and multiunit manufactured housing, and commercial modulars.~~ The bill, by requiring the department to charge fees commensurate with its costs of implementing these provisions, which are deposited into the Mobilehome-Manufactured Home Revolving

Fund, a continuously appropriated fund, would thereby make an appropriation. The bill would also establish minimum standards of expertise relating to installing or altering the installation of manufactured homes, mobilehomes, *and* multiunit manufactured housing, ~~and commercial modulars~~, and *would require the department* to develop an examination necessary to assess that expertise.

The bill would prohibit a person holding a specified contractor's license from acting as an installer or altering the installation of a mobilehome, manufactured home, *or* multiunit manufactured housing; ~~or commercial modulars~~ unless that person is certified to do so, as specified. The bill would authorize the issuance of a citation and civil penalty against an installer or person required to be certified for violations of provisions relating to installing or altering the installation of manufactured homes, multiunit manufactured housing, and ~~commercial modulars~~ *mobilehomes*. Because a willful violation of these provisions would be a misdemeanor, the bill would impose a state-mandated local program.

(2)

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 18035.26 is added to the Health and  
2     Safety Code, to read:  
3     18035.26. (a) Notwithstanding any other provision of law, the  
4     requirements of this section apply only to the sale of a new or  
5     used manufactured home or multiunit manufactured housing or  
6     used mobilehome sold by a dealer and to be installed by the  
7     buyer on a foundation system pursuant to subdivision (a) of  
8     Section 18551.  
9     (b) The sale shall be deemed complete at the close of escrow.  
10    Escrow shall be deemed closed when all of the following have  
11    been completed:

1     *(1) The following document is executed:*

2                     *Declaration of Delivery Sale*

3     *The undersigned purchaser hereby declares that he/she is*  
4     *agreeing to a delivery sale wherein he/she intends to actually*  
5     *and physically install the subject home described below, or*  
6     *accept responsibility for engaging the services of a licensed*  
7     *contractor to perform that installation. Additionally, the*  
8     *purchaser hereby declares that he/she understands that most*  
9     *manufacturers' warranties do not cover defects caused by*  
10    *improper site preparation or installation. The purchaser takes*  
11    *full responsibility for the proper storage, including blocking of*  
12    *the home and protection from the elements, prior to the*  
13    *completion of the installation.*

14    *It is strongly recommended that, before entering into this*  
15    *agreement, the purchaser has ensured that the home described*  
16    *below will be installed pursuant to subdivision (a) of Section*  
17    *18551 of the Health and Safety Code (see reverse side) and the*  
18    *manufacturer's installation instructions. Additionally, the*  
19    *purchaser should make certain that he/she can meet all permit*  
20    *and fee requirements, including school development fees, most of*  
21    *which may be financed, for the installation of the subject home.*

22                     *Warranty Start Date*

23    *In order to provide reasonable time for the installation of your*  
24    *home, the manufacturer's warranty, when applicable, will start*  
25    *upon the issuance of a certificate of occupancy or 120 days from*  
26    *the close of escrow, whichever occurs first.*

27    *Name of Escrow Company: \_\_\_\_\_; Escrow*  
28    *Number: \_\_\_\_\_*

29    *Manufacturer's Name: \_\_\_\_\_; Serial*  
30    *Number: \_\_\_\_\_*

31    *Dealer's Name: \_\_\_\_\_; Address where*  
32    *purchaser will accept delivery: \_\_\_\_\_; Address*  
33    *where purchaser intends to install home:*  
34    \_\_\_\_\_

35    *(NOTE: An original copy of this document must be deposited*  
36    *with the above named escrow agent as a condition precedent to*  
37    *the preparation of escrow instructions. Upon close of escrow, the*  
38    *escrow agent shall submit the original copy of this document to*  
39    *the department to report this sale; a copy of the original*

document shall be retained by the escrow agent. Additionally, a copy of the original document shall be sent to the manufacturer.)

*WARNING: This is an important document. Do not sign unless you have read and understood the above declaration.*

Purchaser's Printed Name: \_\_\_\_\_ Purchaser's Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Purchaser's Printed Name: \_\_\_\_\_ Purchaser's Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

(Section 18551 of the Health and Safety Code shall be reprinted on the reverse side of this document.)

(2) All funds in the escrow account, other than escrow fees, amounts for accessories not yet delivered, and any other amounts mutually agreed to by the dealer and buyer are disbursed.

(3) The buyer takes delivery of the manufactured home, mobilehome, or multiunit manufactured housing. For the purpose of this section, taking delivery occurs upon the transfer of the home to the buyer at a location mutually agreed upon and as specified in the purchase agreement and the escrow instructions.

(c) The warranty period pursuant to Chapter 3 (commencing with Section 1797) of the Civil Code shall commence either 120 days after the close of escrow or upon the issuance of the certificate of occupancy, whichever occurs first.

(d) All sales subject to this section shall meet the escrow requirements of Section 18035.2 and the reporting requirements of Section 18080.5. An escrow agent shall not create an escrow instruction wherein a purchaser accepts responsibility for the installation of a manufactured home unless and until the escrow agent is in receipt of the declaration specified in subdivision (a). An escrow instruction created before the receipt of the declaration is null and void and unenforceable.

(e) The report of sale and any related required documents shall be filed with the department within 10 calendar days of the close of escrow. The department shall designate its record as "pending installation" for the unit until the certificate of occupancy is issued and the recorded HCD 433A and applicable fees are received from the enforcement agency. Only at this time shall the record be amended to designate the foundation type to be a permanent foundation pursuant to subdivision (a) of Section 18551 and the department's record cancelled.

1     *SEC. 2. Section 18080.5 of the Health and Safety Code is*  
2     *amended to read:*

3     18080.5. (a) A numbered report of sale, lease, or rental form  
4     issued by the department shall be submitted each time the  
5     following transactions occur by or through a dealer:

6     (1) Whenever a manufactured home, mobilehome, or  
7     commercial coach previously registered pursuant to this part is  
8     sold, leased with an option to buy, or otherwise transferred.

9     (2) Whenever a manufactured home, mobilehome, or  
10    commercial coach not previously registered in this state is sold,  
11    rented, leased, leased with an option to buy, or otherwise  
12    transferred.

13    (b) The numbered report of sale, lease, or rental forms shall be  
14    used and distributed in accordance with the following terms and  
15    conditions:

16    (1) A copy of the form shall be delivered to the purchaser.

17    (2) All fees and penalties due for the transaction that were  
18    required to be reported with the report of sale, lease, or rental  
19    form shall be paid to the department within 10 calendar days  
20    from the date the transaction is completed, as specified by  
21    subdivision (e). Penalties due for noncompliance with this  
22    paragraph shall be paid by the dealer. The dealer shall not charge  
23    the consumer for those penalties.

24    (3) Notice of the registration or transfer of a manufactured  
25    home or mobilehome shall be reported pursuant to subdivision  
26    (d).

27    (4) The original report of sale, lease, or rental form, together  
28    with all required documents to report the transaction or make  
29    application to register or transfer a manufactured home,  
30    mobilehome, or commercial coach, shall be forwarded to the  
31    department. Any application shall be submitted within 10  
32    calendar days from the date the transaction was required to be  
33    reported, as defined by subdivision (e).

34    (c) A manufactured home, mobilehome, or commercial coach  
35    displaying a copy of the report of sale, lease, or rental may be  
36    occupied without registration decals or registration card until the  
37    registration decals and registration card are received by the  
38    purchaser.

39    (d) In addition to the other requirements of this section, every  
40    dealer upon transferring by sale, lease, or otherwise any

1 manufactured home or mobilehome shall, not later than the 10th  
2 calendar day thereafter, not counting the date of sale, give written  
3 notice of the transfer to the assessor of the county where the  
4 manufactured home or mobilehome is to be installed. The written  
5 notice shall be upon forms provided by the department  
6 containing any information that the department may require, after  
7 consultation with the assessors. Filing of a copy of the notice  
8 with the assessor in accordance with this section shall be in lieu  
9 of filing a change of ownership statement pursuant to Sections  
10 480 and 482 of the Revenue and Taxation Code.

11 (e) ~~For~~ *Except for transactions subject to Section 18035.26,*  
12 *for purposes of this section, a transaction by or through a dealer*  
13 *shall be deemed completed and consummated and any fees and*  
14 *the required report of sale, lease, or rental is due when any of the*  
15 *following occurs:*

16 (1) The purchaser of any commercial coach has signed a  
17 purchase contract or security agreement or paid any purchase  
18 price, the lessee of a new commercial coach has signed a lease  
19 agreement or lease with an option to buy or paid any purchase  
20 price, or the lessee of a used commercial coach has either signed  
21 a lease with an option to buy or paid any purchase price, and the  
22 purchaser or lessee has taken physical possession or delivery of  
23 the commercial coach.

24 (2) For sales subject to Section 18035, when all the amounts  
25 other than escrow fees and amounts for uninstalled or  
26 undelivered accessories are disbursed from the escrow account.

27 (3) For sales subject to Section 18035.2, ~~when the installation~~  
28 ~~has been completed and a certificate of occupancy has been~~  
29 ~~issued within 10 days of the close of escrow.~~

30 ~~SECTION 1.—~~

31 *SEC. 3.* Article 2.1 (commencing with Section 18615) is  
32 added to Chapter 5 of Part 2.1 of Division 13 of the Health and  
33 Safety Code, to read:

34  
35 Article 2.1. Installation of Manufactured Homes

36  
37 18615. (a) The department shall implement a program  
38 complying with the requirements of Section 5404 of Title 42 of  
39 the United States Code related to standards for installing or  
40 altering the installing of manufactured homes, mobilehomes, *and*

1 multiunit manufactured housing, ~~and commercial modulars~~ and  
2 the training and certification of installers of manufactured homes,  
3 mobilehomes, *and* multiunit manufactured housing, ~~and~~  
4 ~~commercial modulars~~.

5 (b) For the purposes of the certification required under this  
6 article, the department shall establish minimum standards of  
7 expertise related to the installing or altering the installation of  
8 manufactured homes, mobilehomes, *and* multiunit manufactured  
9 housing, ~~and commercial modulars~~ for certification of installers  
10 and shall provide, in a technical and practical study guide format,  
11 information to assist the installer to achieve certification. A  
12 denial of recertification is subject to appeal to the director of the  
13 department or the director's representative.

14 (c) The department shall develop the examinations necessary  
15 to assess the expertise of persons seeking certification as an  
16 installer of manufactured homes, mobilehomes, *and* multiunit  
17 manufactured housing, ~~and commercial modulars~~ and shall  
18 establish a testing process to administer those examinations.

19 (d) When an applicant passes the examination administered  
20 pursuant to subdivision (c), the department shall provide proof of  
21 certification to the successful applicant.

22 (e) The department shall charge fees commensurate with its  
23 costs of implementing this section to applicants for installer  
24 certification or renewal, training, and testing.

25 Notwithstanding Section 13340 of the Government Code, the  
26 fees collected shall be placed in the Mobilehome-Manufactured  
27 Home Revolving Fund established by Section 18016.5, and are  
28 continuously appropriated to the department for expenditure in  
29 carrying out the provisions of this part.

30 (f) The department may adopt guidelines to implement the  
31 training, testing, certification, and enforcement provisions for  
32 installers under this section. Until July 1, 2009, these guidelines  
33 shall not be subject to the requirements of the Administrative  
34 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
35 Part 1 of Title 2 of the Government Code).

36 18615.5. (a) The director of the department or his or her  
37 designee or an employee authorized by a local enforcement  
38 agency that has assumed jurisdiction pursuant to Sections 18300  
39 and 18865, may issue a citation that assesses a civil penalty  
40 against an installer or person required to be certified pursuant to



Section 18616 for any violation of Part 2 (commencing with Section 18000), this part, or Part 2.3 (commencing with Section 18860), or regulations adopted pursuant to those provisions that relate to installing or altering the installation of manufactured homes, mobilehomes, *and* multiunit manufactured housing, ~~and commercial modulars.~~

(b) Each citation and related civil penalty assessment shall be issued no later than six months after issuance of the notice to correct that is the basis of the citation. The penalties provided for in this section are in addition to, and shall be consistent with, the remedies and penalties specified in Section 18700 or Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, Part 2 (commencing with Section 18000), this part, or Part 2.3 (commencing with Section 18860), or regulations adopted pursuant to those provisions.

(c) The amount of any civil penalty assessed pursuant to subdivision (a) shall be in the amounts specified in Section 18021.7. The civil penalties assessed pursuant to this section shall be payable to the enforcement agency and shall be remitted within 45 days of the issuance of the citation.

(d) A person or entity that is served a citation pursuant to this section may petition the director or his or her designee, or the authorized representative or the local enforcement agency, where applicable, for a hearing. The petition shall be in writing and shall be received by the department or the local enforcement agency within 30 days of the date of issuance of the citation.

(e) Upon receipt of a timely petition, the enforcement agency shall suspend enforcement of the citation, set a time and place for a hearing, and give the recipient of the citation written notice of the hearing. The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the enforcement agency pursuant to a request by the petitioner or the enforcement agency if the enforcement agency determines that good and sufficient cause exists. If the petitioner fails to appear at the time and place scheduled for the hearing, the enforcement agency may notify the petitioner in writing that the petition is dismissed and that compliance with the terms of the citation shall occur within 10 days after receipt of the notification.

(f) The enforcement agency shall notify the petitioner in writing of its decision and the reasons for the decision within 30 days following conclusion of the hearing held pursuant to this section. If the enforcement agency upholds the citation, in whole or in part, the petitioner shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the enforcement agency.

18616. (a) Notwithstanding any other provision of law, a person who is licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall not install or alter the installation of a manufactured home, mobilehome, multiunit manufactured home, or commercial modular unless that person holds a current certification as required under this article and also holds the General Manufactured Housing (C-47) classification as defined under Section 832.47 of Division 8, Title 16 of the California Code of Regulations.

(b) An application by a person for a permit to install, alter the installation of, or reinstall a manufactured home, mobilehome, *or* multiunit manufactured housing, ~~or commercial modular~~ pursuant to this part or Part 2.3 (commencing with Section 18860) shall be accompanied by the appropriate license issued by the Contractors State Licensing Board and, if applicable, the permit issued pursuant to Section 18551.1.

(c) This section shall become operative on July 1, 2006.

~~SEC. 2.—~~

*SEC. 4.* The heading of Article 2.5 of Chapter 5 of Part 2.1 of Division 13 of the Health and Safety Code, immediately following Section 18614, is repealed.

~~SEC. 3.—~~

*SEC. 5.* Section 18871.1 is added to the Health and Safety Code, to read:

18871.1. If a manufactured home, ~~mobilehome, or commercial modular~~ *or mobilehome* is installed in a park, or its installation is altered, the installation or alteration shall comply with the applicable provisions of Part 2.1 (commencing with Section 18200) and the regulations adopted pursuant to those provisions.

1     ~~SEC. 4.~~—

2     *SEC. 6.* No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 the only costs that may be incurred by a local agency or school  
5 district will be incurred because this act creates a new crime or  
6 infraction, eliminates a crime or infraction, or changes the  
7 penalty for a crime or infraction, within the meaning of Section  
8 17556 of the Government Code, or changes the definition of a  
9 crime within the meaning of Section 6 of Article XIII B of the  
10 California Constitution.

O